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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- x  
In re. :

JOHN O'DONNELL and ELLEN O'DONNELL, :

Debtors. :

Chapter 7

Case No. 09-15014 (PCB)

----- x  
JOHN O'DONNELL and ELLEN O'DONNELL, :

Plaintiffs, :

-against- :

INTERNAL REVENUE SERVICE, NEW YORK  
NEW YORK STATE DEPARTMENT OF  
TAXATION AND FINANCE, and THE STATE OF  
NEW JERSEY, :

Defendants. :

Adv. Proc. No. 09-1486 (PCB)

**ANSWER**

----- x  
Defendant the Internal Revenue Service (the "IRS"), by and through its attorney, Preet  
Bharara, United States Attorney for the Southern District of New York, answers the Complaint  
in the above-captioned adversary proceeding on information and belief as follows:

1. Paragraph 1 consists solely of plaintiffs' characterization and/or legal conclusions  
as to the nature of this proceeding, to which no response is required.

2. Paragraph 2 consists solely of legal conclusions with regard to jurisdiction, to  
which no response is required.

3. Paragraph 3 consists solely of legal conclusions with regard to venue, to which no response is required.

4. Admits the allegations contained in paragraph 4.

5. Paragraph 5 consists solely of plaintiffs' characterization of the Complaint, to which no response is required.

6. Paragraph 6 consists solely of plaintiffs' characterization of the Complaint, to which no response is required.

7. Paragraph 7 consists solely of plaintiffs' characterization of the Complaint, to which no response is required.

8. Admits the allegations contained in paragraph 8.

9. In response to the allegations set forth in paragraph 9, the IRS reasserts and incorporates by reference its responses to paragraphs 1 through 8 of the Complaint as if restated herein.

10. Paragraph 10 of the Complaint consists solely of plaintiffs' description of Schedule F to their Chapter 7 petition. The IRS refers the court to the Schedule F for a true and accurate description of its content. In addition, the IRS admits that on August 21, 2009, it filed a proof of claim in the Chapter 7 Proceeding in the amount of \$305,879.05 for federal income taxes, penalties and interest owed by plaintiff (the "IRS Proof of Claim"). The IRS respectfully refers the Court to the IRS Proof of Claim and denies any allegations in Paragraph 10 inconsistent with the IRS Proof of Claim.

11. Paragraph 11 consists solely of plaintiffs' characterization of their cause of action against the IRS, to which no response is required.

12. The IRS denies the allegations contained in paragraph 12 as written, and avers that plaintiffs have federal tax liabilities for the tax years 1997 through 2004 as set forth in the

IRS Proof of Claim. The IRS respectfully refers the Court to the IRS Proof of Claim for a true and accurate statement of its contents.

13. Denies the allegations contained in paragraph 13.

14. Denies the allegations in paragraph 14, as written, and avers that plaintiffs filed federal tax returns for the tax years 1997 through 2004 more than 240 days prior to the Petition Date.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Complaint.

16. Denies the allegations contained in paragraph 16.

17. The allegations in paragraphs 17 to 32 concern tax liabilities owed to the New York State Department of Taxation and Finance and the New Jersey Division of Taxation. The IRS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 17 to 32.

18. The allegations contained in sections (a) through (d) of the Complaint following the word “WHEREFORE” contain plaintiffs’ prayer for relief, to which no response is required. To the extent a response is required, the IRS denies that plaintiffs are entitled to such relief.

### **AFFIRMATIVE DEFENSE**

Pursuant to 11 U.S.C. § 523(a)(1)(C), plaintiffs are barred from seeking a discharge of tax liabilities to the extent that they made a fraudulent return or willfully attempted to evade or defeat such tax.

WHEREFORE, the IRS demands judgment dismissing the complaint and granting such further relief as this Court deems proper, including costs and disbursements.

Dated: New York, New York  
November 30, 2009

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United States Attorney

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